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Record/FILE ON DEMAND

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

<p>Nelson L. Bruce,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-v-</p> <p>Pentagon Federal Credit Union; et al.</p> <p style="text-align: center;">Defendants.</p>	<p>Case No.: 2:22-cv-02211-BHH-MGB</p> <p>PLAINTIFF'S OPPOSITION AND MEMORANDUM IN SUPPORT OF ITS OPPOSITION TO DEFENDANT PENTAGON FEDERAL CREDIT UNION'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT UNDER RULE 12(b)(6) (ECF No. 40) AND DEFENDANT PENTAGON FEDERAL CREDIT UNION'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT (ECF NO.'S 40-1 AND 40-2)</p>
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Comes now Plaintiff, **Nelson L Bruce**, above the age of 18, of the age of the majority, with the exercise of any and all his natural reserved and retained rights hereby respectfully presents his PLAINTIFF'S OPPOSITION AND MEMORANDUM IN SUPPORT OF ITS OPPOSITION TO DEFENDANT PENTAGON FEDERAL CREDIT UNION'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT UNDER RULE 12(b)(6) (ECF No. 40) AND DEFENDANT PENTAGON FEDERAL CREDIT UNION'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT (ECF NO.'S 40-1 AND 40-2). For the reason specified in this Memorandum/Opposition, this court should deny defendant Pentagon Federal Credit Union's (here in "PENFED") motion to dismiss and Memorandum in part and proceed with this case and the scheduling order as plaintiff has stated

plausible claims upon which relief may be granted which is supported by law (the **Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq.** (the “**FDCPA**”), the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq. (the “**FCRA**”), the **Financial Identity Fraud and Identity Theft Protection Act**” as codified under **37-20-170 et seq.** and **37-20-200 et seq.** of the **South Carolina Consumer Protection Code (“SCCPC”)**, Failure to comply with **U.C.C. 9-210 et seq.**, and **36-9-210 et seq.**, “**THE SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT (“SCUTPA”)** AS CODIFIED UNDER **39-5-20**, **Common Law Defamation of Character “Libel”,** and **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**) and Exhibits A-E which is evidence for the record as there is a current controversy before this court related to this matter which this court is put in place to hear by which the due process right of trial by jury has been demanded by the Plaintiff as required under the 7th Amendment of the U.S. Constitution which each Judge of this court has given an oath (**28 U.S. Code § 453**) to uphold which I hereby accept the judges of record oaths of office moving forward.

In the event that the complaint which this court construes as a pleading, of any of Plaintiff’s claims are deemed inadequate,” Plaintiff should be allowed leave to amend his claims “insofar as necessary” as justice so requires in this case because it is clear that defendant has violated the FCRA and other laws as specified in plaintiff’s amended verified complaint and any alleged errors of defect can be corrected. (See...Fed. R. Civ. P. 15(a)(2))

Even if there are any defects in plaintiff’s complaint which there is not, a mere defect in the pleading does not warrant **12(b)(6)** dismissal. *See...Gordon v. Leeke*, **574 F.2d 1147, 1151 (4th Cir. 1978)** (“pleadings should not be scrutinized with such technical nicety that a meritorious claim should be defeated, and even if the claim is insufficient in substance, it may be amended to achieve justice.”), cert. denied, **439 U.S. 970 (1978)**.